

In the Court as set by Article 3 of the Constitution for the United States of America which court is set for:

**district court of the United States  
FOR THE WESTERN DISTRICT OF NEW YORK**

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Daniel J. Wik

**Plaintiff,**

**AFFIRMATION IN SUPPORT OF  
OBJECTION**

**v.**

Donald R. Kunego,

**CASE NO: 6:11-cv-06205 CJS**

**Defendant:**

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Daniel J. Wik respectfully presents and affirms the following under penalty of perjury, under the laws of the United States of America without the "United States" (federal government):

1. I submit this Affirmation in support of my Objections. The information set forth in this Affirmation is based upon my personal knowledge and review of the proceedings in this action and are true and correct to the best of my knowledge.
2. I, Daniel Joseph Wik, am the aggrieved party. I am not representing (re-presenting) myself. I am myself, I am **not** pro se, and I bring this Objection in, and by, my own proper self. I am a sui juris homo liber, a living, breathing human man of the soil domiciled in the republic known as New York, not a federal territory or enclave of the United States, aka federal government. I am not a resident, or member of the body politic, who has never voluntarily waived any rights nor appears in any diminished capacity, nor volunteered into servitude but only appears as a sovereign American National man, a New Yorker, not a corporation, re-presented, partner, trustee, surety, legal entity, any fictitious entity, or as an agent but as a holder of due power.
3. I reserve all rights and waive none unless expressly done so in writing with full knowledge and disclosure. The terms "Plaintiff" and "Plaintiff's", as used in this action, when in specific relation to this action, are defined as a first person singular pronouns (like: I, me,

mine, etc.), which pronouns always with regard to this action mean: Daniel J. Wik, the man, or his possessory interest.

4. This objection is to the Order issued by the United States District Court on or about September 12, 2011 signed by Jonathan W Feldman as United States Magistrate Judge. A copy of said order is attached to and made a part of this Affidavit, as if fully set forth herein, under Exhibit "A".
5. I am not pro se, I am not representing (re-presenting) myself I am without representation and bring this action in my capacity as a man and not as a natural person giving consciousness and physical capacity to any legal entity.
6. I am a New Yorker I have not been provided any evidence or in law reason that the United States District court has jurisdiction in this matter.
7. On or about April 18, 2011 I filed a complaint against Defendant in the District Court of the United States.
8. The acts complained did not occur on any land that was under the exclusive jurisdiction of the United States.

**Action was filed in the District Court of the United States not the United States  
District Court**

9. This action was commenced in the District Court of the United States and not the United States District Court.
10. The District Court of the United States is the first-level Article III court of the United States.
11. The District Courts of the United States are general jurisdiction constitutional Courts created under Article III of the Constitution which does not include the legislative courts of the territories even if they have been vested with jurisdiction similar to that vested in the District Courts of the United States.
12. The United States District Courts are legislative courts of the territories.
13. The United States District Court and the District Court of the United States are not the same courts.

14. I am effectively being denied access to the District Court of the United States that I have petitioned for redress of grievance and I specifically object and do not consent.

**Authority of Adjudicator**

15. This instant action was commenced in an Article III District Court of the United States.
16. I have a right to and demand that a qualified Article III District Court of the United States Judge adjudicate this matter.
17. I do not voluntarily waive my right to a qualified Article III judge of the District Court of the United States.
18. I object to and challenge the authority of a United States Magistrate Judge issuing the above referenced order from the United States District Court in a matter commenced in the District Court of the United States.

**Scheduling**

19. I specifically have requested the first ten (10) subpoenas be issued so I may effectively, expeditiously, and with judicial economy conduct discovery to dispose of this matter in a timely matter.
20. The issuance of the subpoenas are ministerial acts, which should issue forthwith.
21. United States Magistrate Judge Jonathan W Feldman has obstructed my discovery by refusing to perform the ministerial act of having the subpoenas issued that I have requested.
22. The refusal and delay in issuing the subpoenas has denied me access to the court, biases and prejudices me, denies me due process and equal protection of the law, and harms me since I have previously made my scheduling arrangements to include depositions in a timely matter.
23. This delay will, is, and continues to damage me by causing me excessive time and money.
24. I object to the court delaying the ministerial act of issuing the first ten (10) subpoenas that I have requested.

**Two classes of litigants**

25. The issuance of the subpoenas that I am requesting is a ministerial act.

26. The delay in the issuance of the subpoenas upon receipt has created two separate classes of litigants: those that have representation by attorneys and those that lack such representation.
27. The creation of two classes of litigant creates bias, prejudice, and denies me due process, and equal protection of the law.
28. Those litigants that have representation may issue subpoenas and conduct discovery at their leisure and in accordance to their schedule.
29. Those litigants that do not have representation, such as I, rely on the court to issue the subpoenas, in accord with the court's pleasure, discretion and preference for expediency or lack thereof. Furthermore, the court, in this instance, has made a discretionary determination to delay subpoena issuance permitting the opposition to respond to the request for subpoenas, when in fact the issuance of subpoenas is a ministerial act.
30. The denial and delay in the issuance of the subpoenas has the appearance of two separate classes of litigants which are afforded different rights and/or privileges.
31. I object to the delay in the issuance of the first ten (10) subpoenas since it provides bias and prejudice and denies me due process. This delay makes clear two classes of litigants: those with representation and those without. These actions and the creation of two classes of litigant have the appearance to deny me equal protection of the law.

#### **Conclusion**

32. The Court is expected to be fair and impartial, however when the ministerial act of issuing subpoenas to litigants without representation is delayed, the economic and timely conducting of discovery at will is impacted, resulting in adverse impact to me, a class of litigant without representation. Additionally, the denial of access to a constitutional Article III court with a qualified Judge from the District Court of the United States has the appearance of bias, prejudice and denies me due process and equal protection of the law.

October 24, 2011

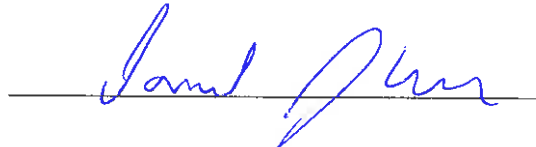
Daniel J. Wik



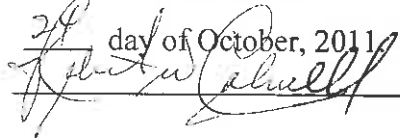
Plaintiff without representation  
in propria persona  
c/o non-domestic  
659 Averill Avenue  
Rochester, New York 14607  
(585)-957-5902

I, Daniel J. Wik, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States" (federal government), that the foregoing is true and correct to the best of my knowledge and belief.

Daniel J. Wik



Affirmed to before me this

24 day of October, 2011  


**ROBERT W. COLWELL**  
Notary Public, State of New York  
No. 01C06121092  
Monroe County, New York  
Commission Expires January 10, 20 13

# **Exhibit A**

**Exhibit A**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

DANIEL J. WIK,

Plaintiff(s),  
v.

ORDER  
11-CV-6205CJS

DONALD R. KUNEGO, in his personal  
and individual capacity,

Defendant(s).

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Plaintiff has filed a Motion for Subpoena and Enlargement of Depositions. (Docket # 13). Defendant's response to the motion shall be filed on or before October 12, 2011. Any reply shall be filed on or before October 27, 2011. This motion will be deemed submitted without oral argument on October 27, 2011.

SO ORDERED.

/s/ Jonathan W. Feldman  
JONATHAN W. FELDMAN  
United States Magistrate Judge

Dated: September 12, 2011  
Rochester, New York

In the Court as set by Article 3 of the Constitution for the United States of America which court is set for:

**district court of the United States  
FOR THE WESTERN DISTRICT OF NEW YORK**

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Daniel J. Wik

**Plaintiff,**

v.

**PROOF OF SERVICE**

Donald R. Kunego

**CASE NO:6:11-cv-06205-CJS**

**Defendant:**

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**PROOF OF SERVICE**

I, Daniel J. Wik, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States" (federal government), that I am at least 18 years of age, and that I personally served the following document(s):

**Affirmation in Support of Objection**

by depositing the same properly and securely enclosed in a sealed wrapper one true and correct copy of said document(s) in a post-office box regularly maintained by the United States, and under the care of the post office at Rochester, New York on the 24<sup>th</sup> of October 2011, with first class postage prepaid and properly addressed to each of the following:

Lippman O'Connor  
300 Olympic Towers  
300 Pearl Street  
Buffalo, NY 14202



Att: Robert H. Flynn

Daniel J. Wik,



Plaintiff without representation  
in propria persona  
c/o non-domestic  
659 Averill Avenue  
Rochester, New York  
(585)-957-5902